



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,706	12/06/2000	Hidetoshi Fukuoka	M1989-8	7997

7278 7590 08/02/2002

DARBY & DARBY P.C.
POST OFFICE BOX 5257
NEW YORK, NY 10150-5257

EXAMINER

SNIDER, THERESA T

ART UNIT	PAPER NUMBER
----------	--------------

1744

DATE MAILED: 08/02/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

HCT

Office Action Summary

Application No.

09/730,706

Applicant(s)

FUKUOKA ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- **Th MAILING DATE of this communication app ars on th cov r sheet with the correspondenc address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 3 and 5 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 3 and 5 attempt to define a method of use of the device rather than provide a further structural limitation.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 6, line 17, 'whereby the air in said guide path is clean air' is confusing; would it be more appropriate for the phrase to read 'whereby the filter provides for clean air in the guide path'(or the-like)?

Line 19, 'electric lines from said body to said motor for rotating' is confusing; isn't it the electricity from the lines that allow for rotation rather the actual lines?

Line 20, 'circulation' should be inserted after 'air'.

Claim 3, line 1, 'A vacuum' should be replaced with 'The electric vacuum'.

Art Unit: 1744

Line 1, 'the/said' should be inserted after 'wherein';

Line 1, 'said air circulation exhaust path' lacks proper antecedent basis.

Claim 4, line 1, 'An' should be replaced with 'The';

Line 6, 'said air circulation exhaust path' lacks proper antecedent basis;

Line 7, 'said feeder lines' lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claim 7 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by CA977910.

CA977910 discloses an elongated hose device having an inner hollow hose disposed within an outer hollow hose (fig. 1, #2).

CA977910 discloses means connected to the hose device for connecting the inner hose with the suction inlet of the fan and the outer hose to the exhaust of the fan (fig. 1, #7,5).

Art Unit: 1744

CA977910 discloses an elongated extension pipe having a hollow inner pipe disposed within a hollow outer pipe, the pipes connecting to the respective hoses (fig. 1, #3,9).

CA977910 discloses a floor suction tool connected to the pipe (fig. 1, #4, fig. 2a, #15-17).

6. Claim 7 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Takemoto.

Takemoto discloses an elongated hose device having an inner hollow hose disposed within an outer hollow hose (figs. 15-16, #233,234).

Takemoto discloses means connected to the hose device for connecting the inner hose with the suction inlet of the fan and the outer hose to the exhaust of the fan (fig. 16, #21a,33,29).

Takemoto discloses an elongated extension pipe having a hollow inner pipe disposed within a hollow outer pipe, the pipes connecting to the respective hoses (fig. 16, #62,63).

Takemoto discloses a floor suction tool connected to the pipe (fig. 16, #24,36,37).

7. Claim 7 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Nakai et al..

Nakai et al. discloses an elongated hose device having an inner hollow hose disposed within an outer hollow hose (fig. 1, #2, col. 4, line 66-col. 5, line 12)).

Nakai et al. discloses means connected to the hose device for connecting the inner hose with the suction inlet of the fan and the outer hose to the exhaust of the fan (fig. 1, #23).

Nakai et al. discloses an elongated extension pipe having a hollow inner pipe disposed within a hollow outer pipe, the pipes connecting to the respective hoses (fig. 1, #3).

Nakai et al. discloses a floor suction tool connected to the pipe (fig. 1, #4,).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over CA977910 in view of Tapp.

CA977910 discloses a similar device however fails to disclose an agitator motor.

Art Unit: 1744

CA977910 discloses a vacuum cleaner body containing a motorized fan (fig. 1, #1, claim 1, preamble).

CA977910 discloses a flexible hose connected to the body (fig. 1, #2).

CA977910 discloses an extension pipe connected to the hose (fig. 1, #3).

CA977910 discloses a floor suction tool connected to the pipe (fig. 1, #4).

CA977910 discloses a rotation brush in the tool (fig. 2a, #11).

Tapp discloses a motor in the tool for rotating the brush (fig. 4, #35). It would have been obvious to one of ordinary skill in the art to provide the motor of Tapp in CA977910 to allow for continually rotation of the brush for the most effective agitation.

CA977910 discloses an air circulation exhaust path from the body to the tool (page 1, lines 15-16, page 3, lines 17-24).

CA977910 discloses the air circulation exhaust path including an air filter (page 1, lines 5-6).

Tapp discloses electric lines from the body to the motor, passing along the air circulation exhaust path(col. 3, lines 47-49, fig. 4, #39,38).

5. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over CA977910 in view of Tapp as applied to claim1 above, and further in view of Oka et al..

CA977910 discloses a similar device however fails to disclose directing of the exhaust onto the brush.

Art Unit: 1744

Oka et al. discloses directing exhaust along a rotation brush (abstract). It would have been obvious to one of ordinary skill in the art to provide the exhaust direction of Oka et al. in CA977910 in view of Tapp to allow for the most effective suctioning of dirt from a surface.

It would have been obvious to one of ordinary skill in the art to determine the most appropriate direction in CA977910 in view of Tapp and Oka et al. to allow for the most effective cleaning.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over CA977910 in view of Tapp as applied to claim 1 above, and further in view of CA972510.

CA977910 in view of Tapp discloses a similar device however fails to disclose a pivoting pipe.

CA972510 discloses a vacuum cleaner having an exhaust path which uses a pivoting pipe (page 6, lines 7-10). It would have been obvious to one of ordinary skill in the art to provide the pivoting pipe of CA972510 in CA977910 in view of Tapp to allow for ease in maneuvering the tool to various locations. It further would have been obvious to one of ordinary skill in the art to ensure for pivoting in CA977910 in view of Tapp and CA972510 that would not cause the motor wires to be disconnected during use.

Response to Arguments

8. Applicant's arguments filed 5/6/2002 have been fully considered but they are not persuasive.

Art Unit: 1744

Applicant urges that Tapp fails to disclose electric lines passing along the air guide path. Applicant is believed to be in error with his arguments because the wire(39) of Tapp passes 'along' the guide path (38).

Applicant urges that none of the cited references disclose concentric hose and extension pipe construction with one being an exhaust path and the other being a suction path. This Applicant is deemed moot in view of the new grounds of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miwa discloses a recirculating vacuum cleaner.

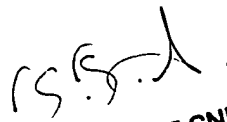
Art Unit: 1744

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (703) 305-0554. The examiner can normally be reached on Monday-Wednesday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 879-9310 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

TTS
July 29, 2002


THERESA T. SNIDER
PRIMARY EXAMINER

Theresa T. Snider
Examiner
Art Unit 1744